

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

D75671
M/htr

_____AD3d_____

Submitted - October 10, 2024

COLLEEN D. DUFFY, J.P.
LINDA CHRISTOPHER
BARRY E. WARHIT
JANICE A. TAYLOR, JJ.

2024-08410

DECISION & ORDER

Hazel Coads, et al., respondents, v Nassau County, et al., defendants-appellants, et al., defendants; Misha Tseytlin, et al., nonparty-appellants.
(Action No. 1)

New York Communities for Change, et al., respondents, v County of Nassau, et al., defendants-appellants, et al., defendants; Misha Tseytlin, et al., nonparty-appellants.
(Action No. 2)

(Index Nos. 611872/23, 602316/24)

Troutman Pepper Hamilton Sanders LLP, New York, NY (Bennet J. Moskowitz and Misha Tseytlin pro se of counsel), for defendants-appellants and nonparty-appellants.

Mejias Milgrim Alvarado & Lindo, P.C., Glen Cove, NY (David L. Mejias of counsel), for respondents in Action No. 1, and New York Civil Liberties Union Foundation, New York, NY (Perry M. Grossman, Terry T. Ding, Thomas W. Munson, and Rubin E. Danberg Biggs of counsel), for respondents in Action No. 2 (one brief filed).

In related actions for declaratory and injunctive relief, which were joined for discovery, Nassau County, a defendant in Action No. 1 and sued in Action No. 2 as County of Nassau, Nassau County Legislature, a defendant in Action Nos. 1 and 2, and Bruce Blakeman, Michael C. Pulitzer, and Howard J. Kopel, defendants in Action No. 2, appeal, nonparty Misha Tseytlin separately appeals, and nonparty Sean Trende separately appeals, from an order of the Supreme Court, Nassau County (Paul I. Marx, J.), entered August 15, 2024. The order granted the

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application of the plaintiffs in Action Nos. 1 and 2 to compel nonparties Misha Tseytlin and Sean Trende to produce documents in compliance with a subpoena served upon each of them.

ORDERED that on the Court's own motion, the notices of appeal are deemed to be applications for leave to appeal, and leave to appeal is granted (*see* CPLR 5701[c]); and it is further,

ORDERED that the order is affirmed, with costs.

The order entered August 15, 2024, did not decide a motion made on notice and, thus, is not appealable as of right (*see* CPLR 5701[a]). However, under the circumstances of this case, we deem the notices of appeal to be applications for leave to appeal and grant leave to appeal (*see Gunn v Sound Shore Med. Ctr. of Westchester*, 5 AD3d 435, 436).

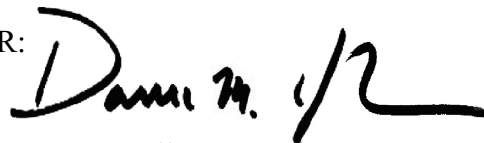
The underlying facts of this appeal are set forth in our decisions and orders on related appeals decided herewith (*see Coads v Nassau County*, ___ AD3d ___ [Appellate Division Docket No. 2024-07766]; *Coads v Nassau County*, ___ AD3d ___ [Appellate Division Docket No. 2024-07814]).

As relevant here, in August 2024, the plaintiffs in Action Nos. 1 and 2 (hereinafter collectively the plaintiffs) made an application to compel nonparties Misha Tseytlin and Sean Trende to produce certain documents responsive to a subpoena served upon each of them. In an order entered August 15, 2024, the Supreme Court granted the plaintiffs' application. Tseytlin appeals, Trende separately appeals, and Nassau County, a defendant in Action No. 1 and sued in Action No. 2 as County of Nassau, Nassau County Legislature, a defendant in Action Nos. 1 and 2, and Bruce Blakeman, Michael C. Pulitzer, and Howard J. Kopel, defendants in Action No. 2, separately appeal. We affirm.

For the reasons set forth in *Coads v Nassau County* (___ AD3d ___ [Appellate Division Docket No. 2024-07814; decided herewith]), the Supreme Court providently exercised its discretion in granting the plaintiffs' application to compel Tseytlin and Trende to produce documents in compliance with the subpoena served upon each of them (*see Ceballos v New York City Hous. Auth.*, 173 AD3d 1132, 1134).

DUFFY, J.P., CHRISTOPHER, WARHIT and TAYLOR, JJ., concur.

ENTER:



Darrell M. Joseph
Clerk of the Court